REMARKS

Claims 15-33 are now present in the application, the original claims 1-14 being canceled hereby without prejudice to applicants' right to again present claims of equivalent or related scope in this or any continuing application.

All of claims 1-14 were rejected under the judicially created doctrine of obviousness-type double patenting, under 35 U.S.C. §102(b) and under 35 U.S.C. § 103(a). Since the rejected claims are no longer pending, each of the applied patents will be discussed below with reference to the newly presented claims.

As regards the double patenting issues, applicants agree that the present claims are highly related to claims of their prior U.S. Patents 5,897,858 and 6,316,483. The patents are commonly owned with this application and applicants have chosen to advance the present prosecution by submitting terminal disclaimers, as suggested by the Office Action. Applicants agree that the pending claims are not identical with those of the two patents but are not in agreement with the assertion that their claims should be considered obvious; the disclaimers are being submitted solely to resolve issues.

U.S. Patent 4,728,509 to Shimizu et al. does not affect the novelty of the present claims and also cannot be considered to establish any obviousness of the claims. This patent discloses the use of polyvinylpyrroloidone, cyclodextrin or caffeine as a solubilizer for a particular polycyclic drug compound, to make a liquid composition. Polyvinylpyrrolidone further is said to stabilize the composition against drug compound decomposition in an alkaline pH environment. However, the patent does not relate to the present claims.

U.S. Patents 5,116,847 to Gilbert et al. and 5,015,474 to Parnell, even if considered in combination with U.S. Patent 4,728,508 to Shimizu et al., do not affect the patentability of the present claims. Gilbert et al. teach compositions of the opiate agonist drug loperamide, for topical application; the compositions may further contain other drug substances, including oxymetazoline hydrochloride, but there is nothing in the patent that would suggest combining the other ingredients required by the present claims. U.S. Patent 5,015,474 to Parnell describes topical compositions that are useful for relieving dryness of mucosal membranes, but does not relate to the particular combinations of ingredients specified by the present claims, or to the disclosures of the other applied documents. It is not at all apparent how one skilled in the art could make any meaningful combination of teachings from these patents, and in particular how such combination could possibly relate to the present claims.

Since the rejections do not pertain to any of the presently pending claims, they should be withdrawn upon reconsideration.

The Office Action noted that documents were not provided along with applicants' information disclosure citation. Applicants presumed that all of the documents were readily available in the file of their parent application, but are submitting copies of the listed non-U.S. patent items herewith for the convenience of the Office. Also, applicants are submitting a new PTO-1449 form since our files contain only abstracts, not translations, for the Japanese-language documents and some of the publications did not have complete citations on the original form; please return an initialed copy of this new PTO-1449 form to indicate that all of the listed documents have been considered, since the Office Action indicated that copies of the U.S. patent documents are already present in the file.

The pending claims appear to be in condition for allowance, and an early notice of allowability is respectfully solicited. However, if any minor matters remain to be resolved for disposition of the application, please contact the undersigned to arrange for a telephonic or personal interview.

Respectfully submitted,

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